

DECLARATION OF STEWART BROWN, PhD., CFA

1. I hold a PhD. in finance from the University of Florida (1974) and the professional designation of Chartered Financial Analyst (charter # 5831). I am currently Professor Emeritus of Finance at Florida State University. I am author or co-author of six law review articles on mutual fund investment advisory fees. My vita is included at Appendix A.

2. My assignment was to calculate the savings, going forward, resulting from the settlement of *Cryer v. Franklin Resources, Inc.*, 16-cv-4265 (N.D. Cal) and certain plan changes made since the commencement of that litigation. Savings will occur in three areas. First, replacement of the Franklin US Government Money Fund R6 with a stable value fund managed by Well Fargo. Second, Franklin has agreed to increase the contribution rate from 75 to 85 percent. Third, replacement of the Franklin Target Date Funds with funds with lower expense ratios. I calculated saving over the three-year settlement period as well as for 5 and 10 years in the future under the assumption that changes are made permanently.

3. Stable Value Fund Savings: Replacement of the Franklin US Government Money Fund R6 with a stable value fund managed by Well Fargo has resulted and will continue to result in substantial savings. I obtained the returns on the Franklin US Government Money Fund R6 from Morningstar. For 2018, the fund yielded 1.34 percent. A stable value fund managed by Well Fargo returned 2.11 percent over the one-year period ending June 30, 2018. The difference between these two return numbers (.77 percent) multiplied by the asset level involved represent annual saving resulting from the change. Since the change occurred as of June of 2018, I calculated saving as sum of the six-month saving for the end of 2018 and the 3, 5 and 10 year saving from 2019 forward.

Results of my calculations are as follows:

| | Undiscounted Saving | Present Value of Saving |
|---------------------------------|------------------------|----------------------------|
| Stable Value Fund Saving | | |
| 3.5 Year Saving 7/18 to 12/21 | 2,108,899 | 2,022,243 |
| 5.5 Year Saving 7/18 to 12/23 | 3,313,984 | 3,101,883 |
| 10.5 Years Saving 7/18 to 12/28 | 6,326,697 | 5,558,578 |

Present value calculations are based on US Government bond yields as of February 1, 2019.

4. During the calendar year 2018, Franklin contributions amounted to \$32,116, 941 based on a 75 percent contribution rate. Had the contribution rate been the agreed rate of 85 percent, Franklin would have contributed \$38,896,185. I assumed that the new contribution rate would be applied as of the beginning of 2020 and the contribution would grow at a 6.86 percent compound annual rate. This is the compound annual growth rate in the number of covered employees that occurred between the end of 2010 and June 30, 2018.

| | Undiscounted Saving | Present Value of Saving |
|-------------------------------------------|------------------------|----------------------------|
| Increased Contribution Rate Saving | | |
| Growth Rate 6.86 Percent | | |
| 3 Year Saving 2020-2022 | 16,776,135 | 15,572,701 |
| 5 Year Saving 2020-2024 | 29,966,003 | 27,089,242 |
| 10 Year Saving 2020-2029 | 71,720,635 | 60,072,108 |

5. Franklin Target Date Funds had total assets as of the end of 2018 of about \$114 million and I calculated a weighted average expense ratio of .607. The weighted average expense ratio of the added State Street Target Date funds is .1. Thus, a switch to less expensive funds will result in saving going forward. On the advice of counsel, I calculated saving under the assumption that half of the assets were converted to lower expense funds as of the end of 2019. It was assumed that assets level will continue to grow at a 6.86 percent compound annual rate. The results of that analysis are as follows.

| Target Date Fund Saving Growth Rate 6.86 Percent | Undiscounted Saving | Present Value of Saving |
|-----------------------------------------------------|------------------------|----------------------------|
| 3 Year Saving 2020-2022 | 1,059,465 | 1,019,777 |
| 5 Year Saving 2020-2024 | 1,892,446 | 1,786,052 |
| 10 Year Saving 2020-2029 | 4,529,381 | 4,030,977 |

6. I calculated the present value of total saving resulting from the settlement as follows:

| Present Value of Total Saving | Stable Value Saving | Increased Contribution Rate Saving | Target Date Saving | Total Saving |
|----------------------------------|---------------------------|------------------------------------------|--------------------------|-----------------|
| 3 Year Saving | 2,022,243 | 15,572,701 | 1,019,777 | 18,614,721 |
| 5 Year Saving | 3,101,883 | 27,089,242 | 1,786,052 | 31,977,177 |
| 10 Year Saving | 5,558,578 | 60,072,108 | 4,030,977 | 69,661,663 |

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 26th day of July, 2019.

By: 
Dr. Stewart Brown

APPENDIX A

Stewart L. Brown Ph. D, CFA

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EDUCATION

Ph.D., Business Administration, Major; Finance; Minors Economics, Quantitative Analysis, University of Florida, December, 1974

MBA, Finance Concentration, University of Florida, June 1971

BSBA, Finance Major, Cum Laude, University of Florida, June 1970

EMPLOYMENT

January 2005 to Present: Professor Emeritus, Florida State University

January 2000 to December 2004: **Service Professor of Finance**, Florida State University.

September 1988 to December 1999: **Professor of Finance**, Florida State University.

August 1985 to March 1986: **Executive Director**, (Florida) Comptroller's Task Force on Securities Regulation.

September 1979 to August 1988: **Associate Professor of Finance**, Florida State University.

September 1974 to August 1979: **Assistant Professor of Finance**
Florida State University

Other Significant Experience

Developed an Internet Course on Investment Planning for the FSU Center for Professional Development. The course is part of a very successful series offered to candidates seeking the Certified Financial Planner professional designation.

Advisor to Florida State Board of Administration, Sept. 1983 to June 2006. The SBA is a 100 billion dollar public pension fund.

Academic Intern, Chicago Board of Trade, June 1980.

Conducted several two-week courses on hydrocarbon project evaluation for the Petroleum Training Institute (Nigeria) and Roy M. Huffington & Co. (Indonesia). Also

Awarded Professional Designation - **Chartered Financial Analyst**,
September, 1979. (Charter # 5831)

Retained by the Securities and Exchange Commission to represent the Commission in administrative hearings against stockbrokers accused of mishandling retail securities accounts. Testified twice for the Commission.

Presentations in the Broker Dealer Training Program jointly offered by the Florida Office of the Comptroller and the North American Securities Administrators Association, annually 1992-98. Lecture on churning, suitability, collateralized mortgage obligations, institutional suitability, options and micro cap fraud. Trained securities examiners on computer analysis of retail securities accounts.

Conducted several one-day training seminars on computer evaluation of retail brokerage accounts for the Florida Division of Securities.

Member of Derivatives Task Force sponsored by Florida Association of Court Clerks & Comptrollers, 1995.

Instructor, Florida School of Banking, 1971 to 1991.

AFFILIATIONS:

Financial Analysts Federation, Jacksonville Financial Analysts Society

PUBLICATIONS:

“Mutual Fund Advisory Fees: An Objective Fiduciary Standard”, forthcoming University of Pennsylvania Journal of Business Law, 21

“Some Clarity on Mutual Fund Fees,” with Steven Pomerantz, University of Pennsylvania Journal of Business Law 20, 767-814.

“Mutual Funds and the Regulatory Capture of the SEC”, University of Pennsylvania Journal of Business Law 19, 701-749.

“Mutual Fund Advisory Fee Litigation: Some Analytical Clarity,” Journal of Business and Securities Law, Spring, 2016.

“Mutual Fund Advisory Fees: New Evidence and a Fair Fiduciary Duty Test,” co-authors, Oklahoma Law Journal, Spring, 2008.

“Mutual Fund Advisory Fees: The Cost of Conflicts of Interest,” co-author, Journal of Corporation Law, Spring 2001.

"On the Existence of Sub-Standard Securities Markets," co-author in Advances in Financial Economics, Hershey, M., John,K., and Makhija, A., eds., London, Elsevier Sciences Inc., Spring 2001.

"Design Considerations for Large Public Sector Defined Contribution Plans," co-author, Financial Services Review, Fall 2000.

"Measuring Strategic Investment Value." co-author, Papers and Proceedings of The Society of Petroleum Engineers, October, 2000.

Fundamentals of Energy Futures and Options, with Steven Errera, Pennwell Press, September, 1999.

"Churning: Excessive Trading in Retail Securities Accounts" Fall-1996, Financial Services Review.

"Limited Partnerships and the Emerging Tort of Suitability Under the Florida Securities and Investor Protection Act," Florida Bar Journal, co-authors, January 1992. Reprinted in Securities Arbitration 1992, Practising Law Institute, July 1992.

"Investment Aspects Relating to the Suitability of Limited Partnership Interests," co-authors, in Securities Arbitration1991, Practising Law Institute, New York, July 1991.

"Calculating Damages in Churning and Suitability Cases," in Securities Arbitration 1991, co-author, Practising Law Institute, New York, July 1991.

"Quantitative Measures and Standards of Excessive Trading Activity," in Securities Arbitration 1991, Practising Law Institute, New York, July 1991.

"Interest Rate Sensitivity and Maturity Gap (Mis)Management: A Critique", The Review of Research in Banking and Finance, co-author,(Fall 1988).

"Using Stock Index Futures to Adjust Portfolio Betas," Akron Business Review, co-author, (Fall 1987).

"A Reformulation of the Portfolio Model of Hedging:Reply" American Journal of Agricultural Economics, (November 1986),

Trading Energy Futures.QUORUM Books (Westport,CT) with Steven Errera, March 1987.

"A Reformulation of the Portfolio Model of Hedging," American Journal of Agricultural Economics, (August 1985),

"Petroleum Futures Trading: Some Practical Applications of the Trade; Discussion," Review of Research in Futures Markets, Vol.3,#2, 1984, co-author.

"How Bank Bond Traders Use Financial Futures: Discussion," Review of Research in Futures Markets, Vol. 1, 1982 co-author

"Assimilating Earnings and Split Information - Is the Capital Market Becoming More Efficient?," co-author, Journal of Financial Economics, (December 1981),.

"Heating Oil Spreads Ignite in U.S., U.K.," Commodities, (September 1981) co-author.

"Federal Regulation of Currency Futures Trading," co-author, Florida State University Law Review, (Spring 1981)

"Biased Estimates and Unstable Betas," co-author, Journal of Finance, (March, 1980),.

"Earnings Announcements and Auto-Correlation: An Empirical Test," Journal of Financial Research, (Fall 1979).

"Auto-Correlation, Market Imperfections, and the Capital Asset Pricing Model," Journal of Financial and Quantitative Analysis, (December 1979).

"Earnings Changes, Stock Prices and Market Efficiency," Journal of Finance, (March 1978).

"Choice Dilemma as a Predictor of Group Risk Behavior," co-author, Decision Sciences, (November 1976).

EXPERT WITNESS EXPERIENCE

Testified in excess of seventy times, largely in proceedings related to retail securities and stockbroker mis-conduct, e.g., churning, suitability and associated damages. Testified in state (Florida) and federal court as well as in arbitration hearings conducted by The American Arbitration Association, The National Association of Securities Dealers and The New York Stock Exchange. Testified for the Securities & Exchange Commission, the Florida Division of Securities and the Iowa Securities Department in administrative hearings related to stockbroker licensing. Grand Jury testimony for the US Justice Department (Middle District of Florida) in the only known criminal churning case. Worked with the FBI (Tampa Office) on screening for micro-cap fraud. Extensive experience in options and penny stock cases. Institutional investments experience including mutual funds, bank trust departments, exchange funds and money management cases.